

Doc Code: AP.PRE.REQ

PTO/SB/33 (07-09)

Approved for use through 07/31/2012. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

0033-0996PUS1

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]

on _____

Signature _____

Typed or printed name _____

Application Number

10/532,936

Filed

April 28, 2005

First Named Inventor

Tatsuo SUDOH

Art Unit

2176

Examiner

S. DASGUPTA

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

☒ attorney or agent of record.
Registration number 29271

☐ attorney or agent acting under 37 CFR 1.34.
Registration number if acting under 37 CFR 1.34 _____

Robert Doans #48222

Signature

Charles Gorenstein

Typed or printed name

703-205-8000

Telephone number

October 1, 2010

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☐ *Total of _____ forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent Application of:

Tatsuo SUDOH et al.

Application No.: 10/532,936

Confirmation No.: 3091

Filed: April 28, 2005

Art Unit: 2176

For: MULTIMEDIA DATA PROCESSING
DEVICE WHICH CAN EASILY PREPARE
MULTIMEDIA CONTENTS

Examiner: S. DASGUPTA

ARGUMENTS IN SUPPORT OF PRE-APPEAL BRIEF REVIEW

MS AF

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In addition to the Notice of Appeal which is being concurrently filed, Applicant respectfully request a Pre-Appeal Brief Conference to consider the issues raised in the Office Action dated June 3, 2010, that finally rejected claims 61-66.

Basic Requirement to Answer All Material Traversed

Pursuant to M.P.E.P. § 707.07(f), a basic requirement of examination is that were the applicant traverses any rejection, the examiner should, if he or she repeats the rejection, take note of the applicant's argument and answer the substance of it. The Advisory Action of September 10, 2010 does not address Applicants' arguments made in the Reply filed August 23, 2010. In particular, the Examiner does not address the Applicants' arguments related to claim construction and the phrase "same predetermined time, provided at pages 2-3 of the Reply, and related to failure to disclose at least one claim element, provided at pages 3-4 of the Reply. Subsequently, Applicants submit that the Advisory Action of September 10, 2010 is non-responsive to the arguments presented in the Reply of August 23, 2010.

Applicants repeat the arguments presented in the Reply of August 23, 2010, as they point out clear errors in the Examiner's rejection.

Rejection Under 35 U.S.C. § 102

The Examiner has rejected claims 61-65 under the provisions of 35 U.S.C. 102(e) as being anticipated by U.S. Patent 7,260,785 (Ching). The Applicants respectfully submit that the claims 61-65 are not anticipated by Ching. For a Section 102 rejection to be proper, the cited reference must teach or suggest each and every claimed element. See M.P.E.P. 2131; M.P.E.P. 706.02. Thus, if the cited reference fails to teach or suggest one or more elements, then the rejection is improper and must be withdrawn. The Applicants respectfully submit that Ching fails to disclose several claim elements of claims 61-65.

Examiner's Further Argument fails to take into consideration claim construction

In the section "Response to Arguments," the Examiner presents a further argument that:

"(iv) Although Ching does not expressly disclose "a predetermined input operation is received by said inputting unit of said data processing device at the same predetermined time,"...the claim language does not recite this." (Final Office Action at paragraph bridging pages 10-11).

Applicants submit that this Examiner's argument is in error as it fails to take into consideration claim construction.

The applicable section of claim 61 is provided as follows.

"a schedule describing unit for managing time of effect of said media data that is reproduced in said reproducing unit of said data processing device and time of effect of said input operation that is received by said input unit, wherein

said multimedia contents data is processed so that predetermined media data is reproduced in said reproducing unit of said data processing device at a predetermined time on the basis of said schedule describing unit, a predetermined input operation is received by said inputting unit of said data processing device at said predetermined time, and said data processing device carries out a process that corresponds to said predetermined input operation at said predetermined time on the basis of said input operation describing unit."

Applicants submit that in accordance with claim construction, and in particular antecedent basis provided by the term "said", the recited phrase "said predetermined time" is the predetermined time at which predetermined media data is reproduced in said reproducing unit. In other words, antecedent basis dictates that recitation of "said predetermined time" is the same predetermined time as the earlier recited "a predetermined time."

As admitted by the Examiner, because Ching does not expressly disclose “a predetermined input operation is received by said inputting unit of said data processing device at the same predetermined time,” Applicants submit that Ching fails to teach or suggest at least the respective claimed features.

Ching Fails to Disclose at least one Claim Element

Applicants submit that Ching requires reception of a spot before (i.e., outside a time period) a scheduled insertion point and thus the event of receiving an input does not occur at the same time as the predetermined time during reproduction.

In particular, the receiver server 16 of Ching is an unattended system (Ching at col. 3, lines 27-36) that inserts spots into cable or network operator feed at scheduled times. Applicants submit that the receiver server 16 does not include a reproduction describing unit. In any case, Applicants submit that although Ching performs insertion at scheduled times, the input operation (e.g., receiving the spots for insertion) is performed much before the scheduled time, i.e., at a different time. In contrast, in the present invention the input operation is received during the predetermined time set by a schedule describing unit.

Subsequently, Applicants submit that Ching fails to disclose at least the claimed features of “...a schedule describing unit for managing time of effect of said media data that is reproduced in said reproducing unit of said data processing device and time of effect of said input operation that is received by said input unit, wherein

said multimedia contents data is processed so that predetermined media data is reproduced in said reproducing unit of said data processing device at a predetermined time on the basis of said schedule describing unit, a predetermined input operation is received by said inputting unit of said data processing device at said predetermined time, and said data processing device carries out a process that corresponds to said predetermined input operation at said predetermined time on the basis of said input operation describing unit.”

A disclosed example of this claimed subject matter is the event processing timetable shown in Fig. 11. In the example in Fig. 11, an animated image taking application starts up when the select key is operated between 0 and 8 seconds after the start of the implementation of the script. A screen for selecting image taking program and letter inputting application that is a text editing program is

displayed, and the program that is selected starts up when the select key is operated between 8 and 15 seconds after the start of implementation of the script.

In this example, the claimed "predetermined time" pertains to the coincidence of the implementation of the script and the input by a select key during 0 to 8 seconds after commencement of the script.

For at least these reasons, reconsideration and allowance thereof are respectfully requested.

Dated: October 1, 2010

Respectfully submitted,

By Robt Doans #48222
Charles Gorenstein *Robert Doans*
Registration No.: 29271
BIRCH, STEWART, KOLASCH & BIRCH, LLP
8110 Gatehouse Road, Suite 100 East
P.O. Box 747
Falls Church, VA 22040-0747
703-205-8000